

REMARKS

Initially, Applicant would like to express appreciation to the Examiner for the detailed Final Official Action provided. Upon entry of the above amendment, claims 1, 19 and 29-37 will have been amended and claims 12 and 25 will have been canceled. Claims 1, 3-5, 9-10, 13-19, 21-23, 24-31 and 33-37 are pending for consideration by the Examiner.<sup>1</sup> Applicant respectfully requests reconsideration of the outstanding rejections and allowance of all the claims pending in the present application. Such action is respectfully requested and is now believed to be appropriate and proper.

The Examiner has found Applicant's arguments submitted with the Amendment and Response of January 7, 2004 unpersuasive, and maintained the rejection of claims 1, 3-5, 9-10, 12, 16-18, 24 and 29-30 (and has rejected previous newly presented claims 33 and 35) under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,846,155 to KIMURA in view of U.S. Patent No. 4,044,546 to SATO.<sup>2</sup>

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<sup>1</sup> Applicant notes that on line 4 of the Examiner's PTOL-326 Form indicates that claims 1-37 are pending in the application, although claims 2, 6-8, 11, 20 and 24 were canceled by Applicant in a previous Response and claim 32 was not entered (and claims 12 and 25 have been canceled upon entry of the present paper). Applicant requests confirmation in this regard, should Applicant's understanding be incorrect.

<sup>2</sup> Applicant notes that claim 24 was canceled in a previous response. However, Applicant assumes that the Examiner's rejection of this claim is a result of the Examiner "cutting and pasting" from a previous official action, and that this claims are indeed canceled. Applicant requests confirmation in this regard, should Applicant's understanding be incorrect.

With respect to the Examiner's rejection of independent claims 1, 29-30, 33 and 35, Applicant again respectfully traverses this rejection, and submits that the applied references are markedly different from the present invention as claimed. Initially, Applicant expressly incorporates herein the arguments proffered in the Amendment and Response filed on January 7, 2004, namely, that the applied references fail to teach or suggest at least the displaying of the date in an order of at least one of year, month and day; month, day and year; and day, month and year, wherein one of the year, month, and day is set to a color different from the others, as claimed in independent claims 1, 19 and 29-31, nor do the applied references teach or suggest at least the displaying of the date in an order of at least one of year, month and day; month, day and year; and day, month and year, wherein one of the year, month, and day is set to a font different from the others, as claimed in independent claims 33-37. Specifically, Applicant respectfully notes that the Examiner has again mischaracterized the present claimed invention. For example, on page 2 of the Official Action, the Examiner notes that "Applicant asserts that 'the applied references fail to teach or suggest displaying date in an order of at least one of year, month and day; month, day and year.' but *completely fails to address* the claimed limitation "wherein one of the year, month, and day is set to a color (or font) different from the others," which, as previously discussed, is neither taught nor suggested by the references of record. The Examiner further (incorrectly) asserts that Applicant mischaracterized the Examiner Kelley's comments, and notes that Examiner

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Kelley explained that “using different color or font or character is not patentable otherwise examiner has to issue patent for each font or color or character.” It is respectfully submitted that the Examiner’s reasoning is again incorrect. Applicant is not claiming a specific font or color or character- only that one is different from the others.

With respect to the Examiner’s determination regarding claimed limitation “wherein one of the year, month, and day is set to a color (or font) different from the other” (discussed on page 3 of the Official Action), the Examiner is again incorrect for the same reasons as noted in Applicant’s response of January 7, 2004. Specifically, the applied SATO secondary reference is directed to displaying the date at an arbitrary position (*see, e.g.*, Fig. 3E), and while this reference discloses displaying the *entire* date in different colors (*see, e.g.*, col. 10, lines 40-51), there appears to be no disclosure whatsoever in SATO of differentiating the date by setting one of a year, month and day to a color or font different from the others.

With respect to the Examiner’s citation and discussion of the SYBEX manual, which only generally discloses changing the color or character scheme within a word processing document, the Examiner has provided absolutely no motivation for combining this manual with the endoscope of KIMURA (or any of the other references of record). Similarly, with respect to the Examiner’s citation of U.S. Patent No. 4,226,443, which is directed to a printed calendar having the months in different color, the Examiner has provided no discussion

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whatsoever of this document, and Applicants note that there is no motivation whatsoever to combine this printed calendar with an endoscope.

Nevertheless, solely to expedite the allowance of the present application and without agreeing to the propriety of the Examiner's rejections, Applicant has substantially incorporated the limitations of claim 12 (which is substantially similar to claim 25, as noted by the Examiner) into all independent claims (and has canceled claims 12 and 25), *e.g.*, that the display order can be changed on the screen by a switching operation of the display order (as claimed in independent claims 1, 19, 29, 33, 34, 35); and switchably displaying, via a switching operation, an order of the displayed date (as substantially claimed in independent claims 30, 31, 36 and 37). As discussed in previous Amendments and Responses (and in Applicant's previously filed Appeal Brief), given the international nature of medicine, as in certain instances medical records and procedures may be viewed in several countries to effect treatment, it is crucial that a doctor or other medical professional viewing the display in any given country, be given accurate information as to when a particular procedure was performed, for example, to track the progression of a disease. For example, when using a related art endoscope, a Japanese doctor viewing an image recorded from overseas may not know whether 01-10-03 designates January 10, 2003, October 3, 2001, or March 10, 2001. Thus, in the present claimed invention, even though the display order of the year, month and day may be changed, the date may be easily ascertained (differentiated) because one of the

year, month and day is set to (or stored in) a color or font different from the other of the year, month and day, which Applicants respectfully assert is a definite advantage over the related art.

To the contrary, none of the applied references teaches or suggests at least the claimed feature of switching the order of the displayed date. For example, SATO is merely capable of displaying the *entire* date in a different format, size, color or font (*e.g.*, 1996.3.10 *vs.* ‘96-03-10) and does not change the order of the date (*i.e.*, the date is always displayed in the same order) (*see, e.g.*, Fig. 3C).

The Examiner has maintained the rejection of claims 13-15, 19, 21-23, 25-28 and 31 (and rejected previously-submitted claims 34 and 37) under 35 U.S.C. § 103(a) as being unpatentable over KIMURA in view of SATO and further in view of U.S. Patent No. 5,408,996 to SALB for the same reasons set forth in the previous Official Action of October 7, 2003. Applicant respectfully traverses the Examiner’s rejection for at least the reasons discussed *supra*, *i.e.*, that the applied references (including SALB) fail to teach or suggest at least the claimed feature of switching the order of the displayed date.<sup>3</sup> Applicant additionally notes that not only does SALB fail to teach or suggest at least the claimed feature of switching the order of the displayed date, but SALB completely fails to disclose

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<sup>3</sup> With respect to this rejection, Applicants also expressly incorporate herein the arguments proffered in Applicant’s previously-filed Amendments and Responses and well as Applicant’s previously-filed Appeal Brief.

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displaying of a date. Thus, Applicant respectfully submits that rejected independent claims 19, 31, 34 and 37, as well as all independent claims and the claims dependent therefrom, are patentably distinct from the references of record for at least these reasons.

Applicant again respectfully submits that the Examiner has not set forth a proper motivation as required by 35 U.S.C. § 103 to combine the teachings of KIMURA and SATO and/or SALB in the manner asserted by the Examiner. It is clear that in both rejections under §103, the Examiner has, based upon Applicant's disclosure, picked various individual features of the references and has combined them in the manner taught only by Applicant's disclosure. Applicant again notes that this hindsight reconstruction of the prior art is inappropriate under 35 U.S.C. § 103.

With respect to the Examiner's rejection of dependent claims 3-5, 9-10, 13-18, 21-23 and 24-28 under 35 U.S.C. §103(a), as these claims are dependent from either allowable claim 1 or 19, the independent claims being allowable for at least the reasons discussed *supra*, these pending dependent claims are also allowable. Further, all dependent claims each set forth a further combination of elements neither taught nor disclosed by the applied references. Accordingly, the Examiner is respectfully requested to withdraw all rejections under 35 U.S.C. §103(a).

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As described above, the above amendments to the existing claims incorporate subject matter from an existing claim (*i.e.*, claim 12 or claim 25). Thus, the present amendment does not raise new issues that would require the Examiner to conduct another search.

Thus, Applicant respectfully submits that each and every pending claim of the present application meets the requirements for patentability under 35 U.S.C. § 103 and respectfully requests the Examiner to indicate the allowance of each and every pending claim in the present application.

SUMMARY AND CONCLUSION

In view of the foregoing, it is submitted that the present amendment is in proper form and that none of the references either taken together or taken alone in any proper combination thereof, anticipate or render obvious Applicant's invention. In addition, the applied references of record have been discussed and distinguished, while significant features of the present invention have been pointed out. Accordingly, consideration of the present amendment, reconsideration of the outstanding Official Action and allowance of the present application and all of the claims therein are respectfully requested and are now believed to be appropriate.

Applicant notes that this amendment is being made to advance prosecution of the application to allowance, and with respect to the subject matter incorporated into the independent claims by the present amendment, should not be considered as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims. Further, no acquiescence as to the propriety of the Examiner's amendment is made by the present amendment. All other amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.



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Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
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